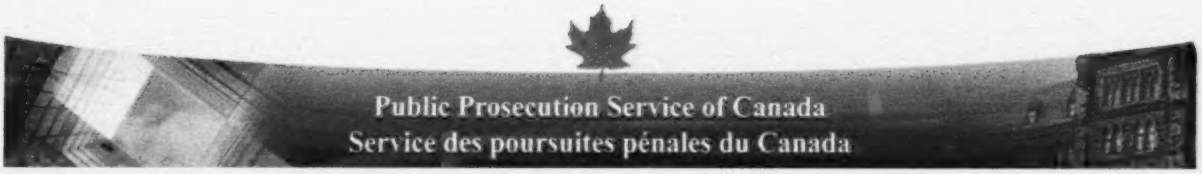

Internal Audit Division

AUDIT OF THE NUNAVUT REGIONAL OFFICE

Final Audit Report

MARCH 2018

As recommended by the Departmental Audit Committee, subject to approval by the Director of Public Prosecutions, on March 21, 2018.

Approved by the Director of Public Prosecutions on March 29, 2018.

Canada

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1.0 EXECUTIVE SUMMARY

1.1 OBJECTIVES AND SCOPE

The overall objective of this audit was to assess the adequacy and effectiveness of the management control framework in support of the Public Prosecution Service of Canada's (PPSC) mandate, mission and values, and to assess the efficiency of business processes.

This audit focused on the operations of the Nunavut Regional Office (NRO), particularly whether the region was complying with the PPSC's six principles for more efficient work processes. It also covered the NRO's interactions with certain functional areas located in Headquarters (HQ) that provide support, and its interactions with other federal departments and agencies and investigative agencies.

The audit methodology included:

- interviews with PPSC staff and senior managers at the NRO and HQ;
- a review and an analysis of documented policies, practices and procedures and related corporate documents;
- an analysis of financial, human resources and workload systems data;
- a review of prosecution files; and
- a physical inspection of the office.

The planning and examination phases of the audit were conducted between May and November 2017.

1.2 AUDIT CONCLUSION

The Internal Audit Division (IAD) assessed the adequacy and effectiveness of the NRO's management control framework against pre-established audit criteria based on Treasury Board (TB) policies and directives, PPSC policies, directives, protocols and procedures, as well as general best practices. Overall, the region's management control framework was adequate; however, improvements could be made to communications, review of prosecution files, certification under sections 32 and 34 of the *Financial Administration Act* (FAA), financial coding and transaction documentation.

1.3 SUMMARY OF RECOMMENDATIONS

This report contains recommendations to the Chief Federal Prosecutor (CFP), who should:

- develop and implement an approach to communications that fosters interaction with, within and between employees from different functions;
- implement a prosecution file review system, including but not limited to, complexity and prosecution plans; and
- ensure that certification of transactions under sections 32 and 34 of the FAA is appropriate, that financial coding is accurate and that transactions are properly documented

1.4 STATEMENT OF ASSURANCE

In my professional judgement as the PPSC's Chief Audit Executive, sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the conclusions reached and contained in this report. The audit's findings and conclusion are based on a comparison of the conditions, as they existed at the time of the audit, against pre-established and approved audit criteria that were agreed upon by PPSC's management. The findings and conclusion are applicable only to the entity examined. The audit was conducted in accordance with the *Internal Auditing Standards for the Government of Canada*.

I would like to thank PPSC staff at the NRO and HQ for their cooperation and assistance during the conduct of this audit.

Cathy Rodrigue
Chief Audit Executive

2.0. INTRODUCTION

2.1. BACKGROUND

Overview of Nunavut Regional Office (2016-2017)

Salaries ($)	Operations and Maintenance ($)	Total ($)	Full-Time Equivalents
2,952,657	4,792,506	7,745,162	40

Nunavut is Canada's largest Territory and smallest population centre, and its population is approximately 84% Inuit. The NRO is based in Iqaluit. Prosecutors prosecute all Criminal Code offences as well as offences under other federal statutes and under territorial legislation.

The Nunavut Court of Justice sits in all 26 communities in Nunavut. Court dockets are lengthy and often have numerous cases of domestic violence and sexual assault; this type of case is handled by the crown prosecuctors in the northern territories. Prosecutors travel long distances by plane to isloated areas, sometimes in extreme conditions and for extended periods of time.

The IAD conducted the audit of the NRO in accordance with the PPSC's Risk-Based Audit Plan 2016-2019, which was approved by the Director of Public Prosecutions on March 22, 2017.

2.2. OBJECTIVES, SCOPE AND METHODOLOGY

The overall objective of this audit was to assess the adequacy and effectiveness of the management control framework in support of the PPSC's mandate, mission and values, and to assess the efficiency of business processes.

This audit focused on the activities of the NRO, particularly whether the region is complying with the six principles for more efficient work processes. It also covered the NRO's interactions with certain functional areas of HQ that provide support, and its interactions with other federal departments and agencies and with investigative agencies.

The audit methodology included:

- interviews with PPSC staff and senior managers at the NRO and HQ;
- a review and an analysis of documented policies, practices and procedures and related corporate documents;
- an analysis of financial, human resources and workload systems; and
- a review of prosecution files and a physical inspection of the office.

The planning and examination phases of the audit were conducted between May and November 2017.

3.0 OBSERVATIONS AND RECOMMENDATIONS

3.1 PUBLIC SERVICE VALUES

NRO employees are aware of the Code of Conduct and are informed of the PPSC's values and ethics.

Explicit, well-communicated and well-understood ethical requirements are key to the staff commitment, as they set the standard to which all employees must adhere.

The audit expected that the PPSC's Code of Conduct would be communicated to NRO employees in an effective manner. The audit found that NRO employees had received a copy of the PPSC's Code of Conduct and certified that they have read the Values and Ethics Code for the Public Sector as part of the annual performance assessment process.

The NRO has procedures for addressing conflicts of interest resulting from the fact that employees may know the accused and/or the witnesses involved in prosecutions.

3.2 GOVERNANCE

The NRO has appropriate governance that would benefit from more communication between different work units.

Governance is the combination of processes and structures implemented to inform, direct, manage, and monitor the activities of the organization toward the achievement of its objective. The audit expected the NRO to have appropriate governance that supports effective decision-making and communication.

Governance bodies
The CFP and supervisors meet and have discussions frequently, on an informal basis.

Budget management
At the PPSC it was expected that "positions directly reporting to the CFP need to perform duties related to the overall management of corporate functions, including finance, planning, and human resources". At the NRO, budget management is performed by the CFP; in her absence, this is delegated to the General Counsel-Legal Operations.

Decision-making and communication
Interviewees stated that the NRO's decision-making process is unclear and communication between and among employees occupying different functions is lacking and uncoordinated. In addition, roles of certain employees are not clear to others working on the same files.

Recommendation

1. The CFP should develop and implement a communications approach that fosters interaction with, within and between employees from different functions.

3.3 PEOPLE

In general, policies and practices support human resources development and management.

The audit expected the NRO to have controls supporting sound human resources management.

Leave analysis
Data from PeopleSoft, the PPSC's human resources information system, showed that employees took their annual leave in accordance with their collective agreements. No concerns were noted regarding the use of sick leave.

Occupational health and safety
The audit expected the NRO to comply with policies and procedures governing occupational health and safety (OHS). The NRO has an OHS committee that was meeting its obligations and interviewees felt that they had received appropriate OHS training.

However, employees reported that occasionally, when they travel for court circuit, they are asked to lift bags exceeding the National Joint Council's OHS Directive permitted weight. In addition, in certain communities, accommodations are rare, resulting in sharing rooms with non-PPSC employees.

Management is aware of these circumstances and has taken possible steps to address them.

3.4 SECURITY

Improvements can be made in terms of training, use of available tools, updating and testing the business continuity plan, and security sweeps. These practices would improve compliance with the TB's Policy on Government Security.

The objective of the TB's *Policy on Government Security* (the Policy) is to ensure that deputy heads effectively manage security activities, such that information, assets and services are protected against compromise and individuals are protected against workplace violence. The audit expected the NRO to comply with the Policy and related policy instruments.

Interviews revealed that measures for protecting employees and their families from threats are adequate. The NRO took part in a practical exercise for dealing with dangerous situations in court, and employees were offered outdoor survival training. Employees have access cards for the office. In addition, cellular telephones are made available to employees assigned to the court circuit. Filing cabinets and offices are equipped with locks.

The region's business continuity plan (BCP) was developed in 2011 but has not been tested or updated since. The PPSC's Departmental Security Officer (DSO) confirmed that the NRO's BCP is scheduled for testing in January 2018.

Interviewees stated that they had not received any formal security training. During the PPSC's Audit of security Governance, the DSO committed to developing a security awareness program by September 2018.

Security measures for accessing, storing, sending, transporting (e.g. secure briefcases, fax machines and filing cabinets) and destroying information are available, but employees do not use them consistently.

Auditors conducted a security sweep after business hours and noted deficiencies related to unlocked filing cabinets, files not placed back in their cabinets, keys not stored away, and unlocked office doors. The DSO stated that no security sweeps took place at the NRO and that he was working on implementing a directive on security sweeps for February 2018. Awareness and security sweeps would ensure better use of these measures.

The audit found the need for improvements in security and management has already undertaken measures to address these areas.

3.5 PROGRAM ACTIVITIES

Prosecution activities did not always comply with the PPSC's policies, guidelines and directives. Adherence to the "six guiding principles" is difficult to achieve.

The *PPSC Deskbook* (the "*Deskbook*") sets out the guiding principles that prosecutors must follow. It contains directives and guidelines that provide prosecutors with direction and guidance in exercising their prosecutorial discretion. The NRO has developed checklists, templates and guidelines to ensure compliance with the *Deskbook* and promote consistency.

In an effort to reduce work demands and better manage the prosecution function, the PPSC's Senior Advisory Board adopted six principles (Appendix D) to guide the efficient management of work. The audit expected files to be managed and processed in accordance with the PPSC's policies and procedures and with these "six guiding principles".

Interviews revealed that there are processes to support the six principles; however, a review and an analysis of iCase data showed that they have not been completely implemented.

File compliance

The audit reviewed a judgemental sample of 30 files (3 high-complexity, 14 medium-complexity and 13 low-complexity), in paper and electronic format, closed between April 1, 2016, and March 31, 2017, to assess their compliance with the *Deskbook* and relevant directives. We found:

- The level of complexity was indicated in iCase for all files but not indicated in 29 paper files, and the level of complexity in iCase matched the one indicated in the only paper file that contained the level of complexity.
- The decision to prosecute was not documented in five medium and high complexity files.
- Disclosure material was not identified in three files, and in nine files, there was no indication that the disclosure material had been sent to defence counsel.
- Checklists were in files, but in 17 files, at least one checklist had not been filled out.
- Dates in iCase did not match those in paper files in 12 cases.

File assignment

Files in communities outside Iqaluit are assigned to experienced counsel paired with less experienced counsel. High-complexity files are assigned to the general counsel. Given the volume of files, staff rotation and the need to deal with all files regardless of complexity on circuit or in assigned court, this did not preclude having experienced counsel handle low-complexity files. These cases can also be used for training.

File review

The audit expected file review (i.e. a review by a supervisor to ensure compliance with the *Deskbook* and other required procedures) and vetting to be carried out in accordance with accepted national guidelines. Interviewees indicated that file review is not a formal process; however, they had access to senior counsel and their colleagues for discussions regarding legal issues. The lack of review process pertaining to file documentation was also demonstrated based on the file compliance results reported above.

Role of police departments and investigative bodies

The audit expected counsel not to perform the work of police departments and investigative bodies. Interviewees provided mixed responses on this; some of them suggested that they sometimes performed the work of the police and investigative bodies. Management was not aware of these situations; otherwise, they would have escalated the issue to a higher level. The NRO is developing further guidance and increasing awareness to help investigators to better meet prosecutors' requirements.

Prosecution plans

Chapter 3.1 of the *Deskbook* states that prosecution plans must be developed for "major cases", particularly to account for possible requests for resources regarding the prosecution file. The audit team reviewed three high-complexity files and none had a prosecution plan. The CFP stated that from now on, prosecution plans would be prepared for high-complexity cases.

Recommendation

2. The CFP should implement a prosecution file review system including, but not limited to, complexity and prosecution plans.

3.6 STEWARDSHIP

Expenses are generally managed in accordance with the *Financial Administration Act* and applicable directives. Measures must be taken to ensure proper certification under sections 32 and 34 of the *Financial Administration Act*, correct use of financial coding, and adequate documentation of files.

The audit expected expenses to be managed in accordance with the FAA and applicable TB and PPSC directives and guidelines.

An analysis of a judgmental sample of 37 transactions, including 5 acquisition card transactions, processed between April 1, 2016, and March 31, 2017 was conducted. We found six certifications required by the FAA were inadequate and that documentation was missing for five transactions; the values involved were not considered material. In addition, nine transactions had financial coding that was either incorrect or not provided.

Non-compliance with the FAA could result in a loss of delegated financial authorities. Similarly, incorrect financial coding could create inefficiencies.

Recommendation

3. The CFP should ensure that certification of transactions under sections 32 and 34 of the FAA is appropriate, that financial coding is accurate, and that transactions are properly documented.

4.0 CONCLUSION

The IAD assessed the adequacy and effectiveness of the NRO's management control framework against pre-established audit criteria, which were based on TB policies and directives, as well as PPSC policies, directives, protocols, procedures and guidelines, such as the *Deskbook*, and general best practices. Overall, the region's management control framework was adequate; however, improvements could be made to communications, review of prosecution files, certification under sections 32 and 34 of the FAA, financial coding, and transaction documentation.

5.0 MANAGEMENT ACTION PLANS

RECOMMENDATIONS	MANAGEMENT RESPONSE AND ACTION PLAN	OFFICE OF PRIMARY INTEREST	TARGET DATE
1. *The CFP should develop and implement a communications approach that fosters interaction with, within and between employees from different functions.* ***Risk: Medium***	Management agrees with the recommendation. The NRO now has a legal assistant supervisor as well as team leaders/senior counsel in place. Action plan: Office teams will have regular meetings. The CFP will hold regular all-staff meetings.	NRO CFP	June 30, 2018
2. *The CFP should implement a prosecution file review system including, but not limited to, complexity and prosecution plans.* ***Risk: Medium***	Management agrees with the recommendation. General Counsel Legal Operations (GCLO) and the team leaders have been instructed on the need to have prosecution plans prepared on all homicide and high complexity prosecutions in a timely fashion and amendments made as the prosecution proceeds through the various stages. Action plan: The tracking system for these prosecutions has been amended to include the date the prosecution plan is completed and sent to PPSC HQ. The GCLO and team leaders are requesting prosecution plans on other prosecutions requiring close review to ensure the prosecutions stay on track. The GCLO and team leaders will conduct spot checks on prosecution files.	NRO CFP	June 30, 2018
3. *The CFP should ensure that certification of transactions under sections 32 and 34 of the FAA is appropriate, that financial coding is accurate, and that transactions are properly documented.* ***Risk: Medium***	Management agrees with the recommendation. The CFP is meeting regularly with the Business Coordinator ensuring that the section 32 and 34 of the FAA are appropriate. Action plan: The Business Coordinator will ensure all new financial administrative support employees receive adequate training on the FAA, proper financial coding and proper filing of documents.	NRO CFP	June 30, 2018

APPENDIX A – LINKS TO RELATED LEGISLATION, POLICIES, DIRECTIVES AND GUIDELINES

PPSC Code of Conduct

PPSC Deskbook

Financial Administration Act

Directive on Travel, Hospitality, Conference and Event Expenditures

Directive on Internal Audit

APPENDIX B – AUDIT CRITERIA

Lines of Enquiry	Audit Criteria
1.Governance	1.1. The organization has appropriate structures in place to support PPSC's objectives.
	1.2. PPSC's Values and Ethics/*Code of Conduct* are communicated internally and to key stakeholders.
2. Program Activities	2.1 Prosecution files are managed and executed in compliance with PPSC's policies and procedures.
	2.2 Prosecution files are managed and executed in accordance with the "guiding six principles".
3. Compliance	3.1 Financial transactions are in compliance with the *Financial Administration Act* (FAA).
	3.2 Security practices are in compliance with the Treasury Board Secretariat's *Policy on Government Security* and PPSC directives.
4. People	4.1 Policies and practices support the development and management of human resources.

APPENDIX C – LIST OF ABBREVIATIONS

BCP	Business Continuity Plan
CFP	Chief Federal Prosecutor
DSO	Departmental Security Officer
FAA	*Financial Administrative Act*
GCLO	General Counsel – Legal Operations
HQ	Headquarters
IAD	Internal Audit Division
OHS	Occupational Health and Safety
PPSC	Public Prosecution Service of Canada
NRO	Nunavut Regional Office
TB	Treasury Board

APPENDIX D– THE SIX PRINCIPLES

1. Work is to be assigned to employees at the most appropriate level. Managers must examine their processes and determine whether work is more appropriately performed by counsel, administrative staff or paralegals. To the extent this requires additional training for employees, managers are responsible for developing training plans.

2. Work is to be done as early as possible in the life of the file. Following receipt of a file, managers are responsible for setting deadlines for standard actions such as file review and assignment.

3. As few employees as possible, whether administrative staff, paralegals, counsel, team leaders or managers, should work on a given file. Managers are responsible for determining each employee's role.

4. The practice of early "file ownership/assignment" is to be followed. Where the file is initially assigned to a team or group of circuit counsel, the counsel who has spent the most time on the file should presumptively be the counsel who "owns" it.

5. File review and vetting will be done in accordance with nationally agreed upon procedures.

6. Crown counsel should not be doing work that is properly the work of the police or investigative agency. Regional offices should clearly identify to investigators what the PPSC expects from them in terms of timing of the disclosure, the contents of disclosure, and the approaches to the vetting of routine and sensitive information in the disclosure package.